

Regular Meeting	March 19, 2003
Location	6900 Atmore Drive Richmond, Virginia
Presiding	J. Granger Macfarlane, Chairman
Present	Donald L. Cahill Clay B. Hester Gregory M. Kallen Reneé Trent Maxey R. W. Mitchell Sterling C. Proffitt
Absent	Dr. Jeffery C. Trimble
Vacancy	Colleen K. Killilea

6900 Atmore Drive, Richmond, Virginia

I. Approval of January Board Minutes (Board Vice Chairman)

II. Appointment/Report of Nominating Committee/Election of Board Secretary

The Board Vice Chairman asked Mr. Mitchell to chair the Nominating Committee and asked Mr. Kallen and Ms. Maxey to sit as Committee members. They agreed. A recess was taken during which time the Committee met briefly. They then returned to the Board room where the meeting was reconvened.

Mr. Mitchell reported the Nominating Committee's unanimous choice for Board Secretary was Mr. Clay B. Hester. Mr. Cahill *SECONDED* the Committee Chairman's report. As no other names were proffered, the report was concluded and a full Board vote was held. By the unanimous vote of four Board members present and voting (Cahill, Maxey, Kallen, Mitchell), Mr. Hester was elected as Board Secretary. Mr. Hester accepted the position and thanked the members for their support.

Mr. Hester did not vote. Dr. Trimble and the Board Chairman were absent, and there is one vacancy. As a tie-breaking vote was not necessary, a vote by the Board Vice Chairman was not noted.

At this time, the Board Vice Chairman asked that the roll be taken. Six members were present. Mr. Macfarlane and Dr. Trimble were absent. For the benefit of those present, Mr. Proffitt stated that Ms. Killilea had resigned her Board commission due to her appointment to a Judgeship in Williamsburg. Mr. J. Randy Wright of Norfolk has been appointed by Governor Warner to fill her unexpired term. He will be present at the May Board meeting.

III. Chairman's Program for Information for the Board

Presentation by DOC Classification and Records Unit: Time Computation

Mr. Jim Sisk, manager of the Department's Court & Legal and Inmate Intake Sections, was introduced by Mr. Leininger. Mr. Sisk then introduced Ms. Doris Ewing, manager of the Department's Court & Legal unit, who was making today's presentation. Ms. Ewing gave a handout outlining her overview to everyone present.

Her overview illustrated the many aspects of DOC's Court & Legal unit. She went over general facts and figures related to the unit. There are 55 employees in her unit whose mission is to calculate accurate release dates in order that no prisoner is released too early or too late. Court & Legal is responsible for calculating all prisoners' release dates who have over 12 months to serve, whether they are incarcerated in local jails or in state facilities. She stated that the date of offense always governs how a sentence is computed. She illustrated the three good time earning systems available in Virginia and stated how some inmates are governed by all three and how court rulings and Attorney General's opinions affect time computation. She emphasized that it is a very complex system and every day is a challenge in her section.

At this time, the Board Chairman arrived and assumed the Chair.

At the conclusion of Ms. Ewing's presentation, the Chairman opened the floor for questions. Mr. Proffitt stated that his experience with the Court & Legal unit over the years was they had always been extremely helpful and professional. The Chairman asked Ms. Ewing if there had ever been a study of Virginia versus other states as relates to time computation in an effort to try to simplify the system. Mr. Sisk responded that there have been no formal studies and that it has been his experience that due to the fact that most states have just one law governing time computation and Virginia has at least three, it would be impossible to make a comparison. The Chairman then asked if there had ever been an effort inside the Department to compare its system to other states in order to improve upon or make recommendations for a new system. The Director responded that there has been no such study and stated such a study would be useless because you are dealing with our state law and another state's would be different. The Chairman then made the suggestion that if a study was conducted, the Department could

then consider asking that the law be amended. The Director responded that if the Department went to the General Assembly and asked that the law be amended, it would end up with another law and all of the inmates in the system previous to the new law would not be affected, so no advantage would be served.

The Chairman thanked Ms. Ewing for her informative presentation.

IV. Public/Open Comment (Board Chairman)

The Chairman noted there were neither members of the general public appearing to speak to the Board nor comments offered by the Board members at this time.

V. Liaison Committee (Mr. Proffitt)

Mr. Mitchell and Mr. Hester attended the Committee meeting with Mr. Proffitt. The meeting was very informative. Mr. Proffitt gave the Board details of the Department's construction projects and jail and prison population reports as presented to the Committee. Three jails will be coming to the Board for approval of jail construction funding. He stated that Mr. Bass had given the Committee an update on the success of the Department's pre-release program. Mr. Proffitt then went on to mention a change that will go into effect July 1 of this year; that being, if circuit court clerks do not get the final sentencing court orders to the Department timely, the Comp Board can be notified and can charge the clerk's office \$100 for not complying in a timely manner. It was stated that the circuit court clerks are livid about this new law.

The Board Chairman moved to accept a motion to receive the Liaison Committee's report as rendered. That *MOTION* was duly made by Mr. Mitchell, seconded by Mr. Hester, and unanimously *APPROVED* by a verbal response in the affirmative by five members (Cahill, Hester, Kallen, Maxey, Mitchell). There were no opposing votes noted. Mr. Proffitt did not vote on his report. Dr. Trimble was absent. There is a vacancy, and a tie-breaking vote by the Board Chairman was not necessary.

VI. Administration Committee (Mr. Cahill)

1st Quarter End September 30, 2002, Overtime Report

Mr. Cahill reported that the Department made a conscious effort to leave positions open, which resulted in higher overtime expenditures in some areas. All expenditures are justified with the total net cost to the Department still being less than if the positions had been filled. Other deviations were explained to the Committee's satisfaction.

By *MOTION* duly made by Mr. Mitchell, seconded by Mr. Hester and unanimously *APPROVED* by a verbal response in the affirmative by five members (Hester, Kallen, Maxey, Mitchell, Proffitt), the report was received. There were no opposing votes noted.

Mr. Cahill did not vote on his report. Dr. Trimble was absent, and there is one vacancy. A tie-breaking vote was not necessary so a vote by the Board Chairman was not noted.

VII. Correctional Services Committee Report/Policy & Regulations (Ms. Maxey)
Community Corrections/Local Jail Certifications

By unanimous vote of the Committee, the following recommendations were offered:

Dillwyn Correctional Center (100% compliance) – Unconditional Certification

Virginia Beach Lockup #4 (100% compliance) – Unconditional Certification to Include Male and Female Juveniles

Chesterfield Women's Diversion/Detention Center (100% compliance) – Unconditional Certification

VCCW – Unconditional Certification with Approval for a Waiver to Standards 3-4128, 3-4128-1, 3-4133, 3-4134, 3-4136, 3-4145, and 3-4232.

Sussex I State Prison – Unconditional Certification

Brunswick Correctional Center – Unconditional Certification

Harrisonburg Men's Diversion Center – Unconditional Certification

Stafford Men's Diversion Center – Unconditional Certification

Fairfax Day Reporting Center – Unconditional Certification

Norfolk Day Reporting Center – Unconditional Certification

Probation & Parole Services – Unconditional Certification

Caroline Correctional Field Unit #2 – Unconditional Certification

The Board Chairman moved to accept a motion to approve the Committee's recommendations as presented above. That *MOTION* was duly made by Mr. Cahill, seconded by Mr. Hester and unanimously *APPROVED* by a verbal response in the affirmative by six members (Cahill, Hester, Kallen, Maxey, Mitchell, Proffitt). No opposing votes were noted. There was one absence and one vacancy, and a tie-breaking vote by the Board Chairman was not necessary.

Ms. Maxey noted that **Friends of Guest House, Inc.**, which was unconditionally certified by the Board in December, 2002, has closed due to funding problems.

Jail Inspections

Jails achieving 100% compliance on their unannounced inspections were noted for the record. This was provided for informational purposes only. No Board action is required.

Alexandria Adult Detention Center; Alleghany/Covington Regional Jail; Appomattox County Jail; Colonial Beach Lockup; Danville Adult Detention Center; Fairfax Adult Detention Center; Henry County Jail; Northern Neck Regional Jail; Petersburg City Jail and Annex; Piedmont Regional Jail; Rappahannock County Jail; Southampton County Jail and Annex; Sussex County Jail; Virginia Peninsula Regional Jail; and Washington County Jail

Policy & Regulations (Ms. Maxey)
Motion to Approve Board's By Laws

Ms. Maxey *MOVED* that the suggested changes to the Board's By Laws be approved and the By Laws be accepted as amended. The Board Chairman moved to accept a motion to approve the Committee's recommendation. That *MOTION* was *SECONDED* by Mr. Cahill and unanimously *APPROVED* by a verbal response in the affirmative by six members (Cahill, Hester, Kallen, Maxey, Mitchell, Proffitt). No opposing votes were noted. There was one absence, one vacancy, and a tie-breaking vote by the Board Chairman was not necessary.

Board of Corrections Policies

Ms. Maxey noted that the majority of the changes are Code cites and at least one change affected additional verbiage to one policy. The Policies will be presented to the full Board in May for review and approval.

Motion to Approve Requests from Rockingham/Harrisonburg Regional Jail and Portsmouth City for Variance to Standard 4.46

These jurisdictions have applied to the Board for a blanket variance to Standard 4.46, authorizing them to adopt ACA Standard 3-ALDF-4C-16 in its stead. The Department has recently changed to a policy of two meals per day on weekends and holidays. In order to save money, these facilities want to change their procedures to mirror the Department's, but current Board Standards do not allow weekend and holiday meal service variation, requiring three meals per day at all times. The Committee supports a blanket waiver or variance for jails to adopt the Department and ACA Standard in lieu of current Board Standards.

By *MOTION* duly made by Ms. Maxey, *SECONDED* by Mr. Hester and unanimously approved by five members present in the room at the time of the vote (Cahill, Hester, Maxey, Mitchell, Proffitt), the following was read into the record:

The Board of Corrections approves a blanket variance to jail Standard 6VAC15-40-590 to allow adoption of DOC policy or ACA Standards 3-ALDF-4C-16 that provides for a variation in meal service on weekends and holidays. At these time, jails may serve two (2) meals per day in accordance with Standards requirements, and stipulations for written policy to be observed in regularly scheduled, three-year certification audits.

Mr. Kallen was out of the room at the time of the vote. Dr. Trimble was absent. There is one vacancy, and a vote by the Board Chairman was not required.

VIII. Other Business (Mr. Johnson)

The Director gave the Board an update on the Department implementation of the Governor's mandates from last fall. Of the 1,000 positions lost Department-wide, only 60-some employees were ultimately laid off. He mentioned that despite the fact the Department had experienced some increases in overtime, the effect was minimized by the fact that the Department known the mandates were coming and had frozen many positions in anticipation of having to move employees around. He noted that the General Assembly did see fit to restore some positions that had been cut last fall. 15 of the 30 psychologist positions were restored, and 100 of the previously 300 unfunded correctional officer positions have now received full funding. The Director noted that these were not new positions, however.

Following the Director's comments, Mr. Leininger gave a brief legislative update to the Board.

At this time, Mr. Kallen returned to the Board Room.

The Board Chairman then went on to recommend that a resolution be written to honor Ms. Killilea's service to the Board as well as a welcome letter to the newest Board member, Mr. W. Randy Wright. As there was no objection, each will be written by Mrs. Woodhouse for the Board.

On another matter, the Chairman noted a recent article in the Richmond Times-Dispatch concerning a possible conflict of interest involving the Secretary's Office and the Department regarding contract negotiations currently underway for the operation of Lawrenceville Correctional Center, the state's only private prison. He noted that he was concerned about the recusals on the part of the Secretary's Office and had expressed such in a letter to the Governor's Office. The Chairman felt the situation was poorly handled; that decisions were made outside the Board regarding the \$100 million, 5-year Lawrenceville Correctional Center contract where he felt members of the Board should have been involved and were not. He stated that once he discovered and checked into this, he wrote a letter about the way it could have been handled.

Mr. Hester noted that he was not aware of what the Chairman was talking about. The Chairman offered to get copies of the news article in question for each Board member, and that a more complete discussion would be held after the Closed Session.

IX. Closed Session

Mr. Johnson, Mr. Jabe, Mr. Leininger, Ms. Scott, Ms. Smith, Mr. Katz, Ms. Kimbriel, Mr. Link, and Mrs. Woodhouse remained.

By *MOTION* duly made by Mr. Cahill and unanimously affirmed by the verbal indication of seven Board members present (Cahill, Hester, Kallen, Macfarlane, Maxey, Mitchell,

Proffitt), the Board convened in Closed Session pursuant to section 2.2-3711 (a)(7), for consultation with legal counsel and briefings by staff members, consultants, or attorneys pertaining to actual or probably litigation or other specific legal matters requiring the provision of legal advice by counsel. No opposing votes were noted. Dr. Trimble was absent and there is one vacancy.

The Closed Session discussion was held.

The record was reopened and the Board returned to Open Session. An individual roll call vote was taken by Mr. Cahill whereby Board members were requested to vote that to the best of their knowledge, only public business matters lawfully exempted from Open Meeting requirements by Virginia law were discussed in the Closed Meeting, and only such business matters as were identified in the motion convening the Closed Meeting were heard, discussed, or considered. All seven Board members present verbally responded in the affirmative. No opposing votes were noted. Dr. Trimble was absent and there is one vacancy.

X. Other Business (Board Chairman)

At this time, copies of the previously mentioned Richmond Times-Dispatch article were distributed to the Board members. After each had an opportunity to review its contents, the Chairman stated that he felt the negotiations should have been thrown out, and the contract should have been readvertised.

Mr. Hester spoke to the fact that if the Chairman wrote on behalf of the Board, the Chairman did not write for him (Mr. Hester) because he had not had a chance to vote and he (Mr. Hester) felt the Board should vote on such a thing. Mr. Hester went on to voice his strong support of the Governor and the Secretary and noted the fact that he is not quick to criticize and that he did not want any criticism in his behalf going to the Governor.

The Chairman stated he appreciated Mr. Hester's candor. Ms. Maxey then asked if copies of the letter were available. The Chairman stated that he would read the letter for everyone's benefit. (At this time the letter was read into the record by the Chairman. No hard copies were provided.)

The Chairman closed the discussion by stating that the result of his letter was a telephone call and that the administration had handled the situation in the matter they chose to handle it.

No further discussion was held.

XI. Future Meeting Plans

Liaison Committee – 10:00 a.m., Board Room, 6900 Atmore Drive, Richmond, Virginia, May 20, 2003.

Correctional Services/Policy & Regulations Committee – 1:00 p.m., Board Room, 6900 Atmore Drive, Richmond, Virginia, May 20, 2003.

Administration Committee – **9:30 a.m.**, Room 3065, 6900 Atmore Drive, Richmond, Virginia, May 21, 2003.

Board Meeting – 10:00 a.m., Board Room, 6900 Atmore Drive, Richmond, Virginia, May 21, 2003.

At Mr. Cahill's suggestion and by agreement of the full Board, the starting time for the Administration Committee in May will be 9:30 a.m. The Board meeting will start at 10:00. The Chairman stated that the Board's plans to travel would be discussed in May.

XII. Adjournment

There being nothing further, the meeting was adjourned.

(Signature copy on file)

J. GRANGER MACFARLANE, CHAIRMAN

CLAY B. HESTER, SECRETARY